

of the pre-configured cycle and the pre-configured cycle providing two restoration paths to protect against a failure of a span straddling the pre-configured cycle.”

The Examiner cites cycle 331 in Fig. 3 of Ellinas as allegedly providing paths for failure of straddling path 333. Unfortunately, this statement of the Examiner is wrong.

Even if it were the case that cycle 331 were bi-directional, which the Examiner suggests would be obvious, the statement would still be wrong. The Examiner should note that, in Ellinas, the fibers used in overlapping protection cycles are physically distinct (see e.g., Fig. 4), so cycle 331 uses different fibers from cycles from 323 and 327 even where they overlap. The mere existence of the protection capacity of cycle 331 does not enable it to be used: the information has to be actively diverted into the protection cycle; it does not go there by magic. Ellinas only discloses the use of the protection cycles that the failed span overlaps, which in this case are cycles 323 and 327.

The foregoing difference demonstrates the degree to which Ellinas is completely different from the present invention. Again, Ellinas is different in more ways than the Examiner concedes in the Office Action, and these differences must be recognized as patentably distinguishing the present invention over the cited art. Nothing in Ellinas remotely suggests the approach taken by the applicants. In fact, Ellinas teaches a completely opposite and more complicated approach to protection against node failure.

Claim 1 is therefore allowable, and likewise Claim 15 based on the same argument. The same arguments further apply to the remaining claims. Dependent Claims 2-14 and 16-28 are patentable both for their dependence on allowable claims and for the additional subject matter they recite.

CONCLUSION

Reconsideration and withdrawal of the rejections, and allowance of the claims, is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Kevan L. Morgan", is written over the printed name.

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